

1 5 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JOSE R. GUERRERO, State Bar No. 97276  
Supervising Deputy Attorney General  
3 CATHERINE E. SANTILLAN  
Senior Legal Analyst  
4 455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
5 Telephone: (415) 703-5579  
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7  
8 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 1H 2007 719

11 TERESA MARIE RYNCARZ  
12 1295 Paradise Drive  
Martinez, CA 94553

**A C C U S A T I O N**

13 RCP License No. 14552

14 Respondent.

15  
16 Complainant alleges:

17 PARTIES

18 1. Stephanie Nunez (Complainant) brings this Accusation solely in her  
19 official capacity as the Executive Officer of the Respiratory Care Board of California,  
20 Department of Consumer Affairs.

21 2. On or about September 13, 1991, the Respiratory Care Board issued  
22 Respiratory Care Practitioner License number 14552 to Teresa Marie Ryncarz (Respondent).  
23 The license is delinquent with an expiration date of September 30, 2007.

24 JURISDICTION

25 3. This Accusation is brought before the Respiratory Care Board (Board),  
26 Department of Consumer Affairs, under the authority of the following laws. All section  
27 references are to the Business and Professions Code unless otherwise indicated.

28 ///

1                   4.       Section 3710 of the Code states: “The Respiratory Care Board of  
2 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter  
3 8.3, the Respiratory Care Practice Act].”

4                   5.       Section 3718 of the Code states: “The board shall issue, deny, suspend,  
5 and revoke licenses to practice respiratory care as provided in this chapter.”

6                   6.       Section 3750 of the Code states:

7                   “The board may order the denial, suspension or revocation of, or the imposition of  
8 probationary conditions upon, a license issued under this chapter, for any of the following  
9 causes:

10                  “(d) Conviction of a crime that substantially relates to the qualifications,  
11 functions, or duties of a respiratory care practitioner. The record of conviction or a  
12 certified copy thereof shall be conclusive evidence of the conviction.”

13                  “(g) Conviction of a violation of any of the provisions of this chapter or of any  
14 provision of Division 2 (commencing with Section 500), or violating, or attempting to  
15 violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to  
16 violate any provision or term of this chapter or of any provision of Division 2  
17 (commencing with Section 500).”

18                  7.       Section 3750.5 of the Code states:

19                  "In addition to any other grounds specified in this chapter, the board may deny,  
20 suspend, or revoke the license of any applicant or license holder who has done any of the  
21 following:

22                  "(a) Obtained or possessed in violation of law, or except as directed by a licensed  
23 physician and surgeon, dentist, or podiatrist administered to himself or herself, or furnished or  
24 administered to another, any controlled substances as defined in Division 10 (commencing with  
25 Section 11000) of the Health and Safety Code, or any dangerous drug as defined in Article 2  
26 (commencing with section 4015) of Chapter 9 of this code.

27                  8.       Section 3752 of the Code states:

28                  “A plea or verdict of guilty or a conviction following a plea of nolo contendere

1 made to a charge of any offense which substantially relates to the qualifications,  
2 functions, or duties of a respiratory care practitioner is deemed to be a conviction within  
3 the meaning of this article. The board shall order the license suspended or revoked, or  
4 may decline to issue a license, when the time for appeal has elapsed, or the judgment of  
5 conviction has been affirmed on appeal or when an order granting probation is made  
6 suspending the imposition of sentence, irrespective of a subsequent order under Section  
7 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to  
8 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the  
9 accusation, information, or indictment.”

10 9. Section 3752.5 of the Code states:

11 “For purposes of Division 1.5 (commencing with Section 475), and this chapter  
12 [the Respiratory Care Practice Act], a crime involving bodily injury or attempted bodily  
13 injury shall be considered a crime substantially related to the qualifications, functions, or  
14 duties of a respiratory care practitioner.”

15 10. California Code of Regulations, title 16, section 1399.370, states:

16 “For the purposes of denial, suspension, or revocation of a license, a crime or act  
17 shall be considered to be substantially related to the qualifications, functions or duties of  
18 a respiratory care practitioner, if it evidences present or potential unfitness of a licensee to  
19 perform the functions authorized by his or her license or in a manner inconsistent with the  
20 public health, safety, or welfare. Such crimes or acts shall include but not be limited to  
21 those involving the following:

22 “(a) Violating or attempting to violate, directly or indirectly, or assisting or  
23 abetting the violation of or conspiring to violate any provision or term of the Act.”

24 11. Section 118, subdivision (b), of the Code provides that the suspension,  
25 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to  
26 proceed with a disciplinary action during the period within which the license may be renewed,  
27 restored, reissued or reinstated.

28 ///

1 COST RECOVERY

2 12. Section 3753.5, subdivision (a) of the Code states:

3 "In any order issued in resolution of a disciplinary proceeding before the board,  
4 the board or the administrative law judge may direct any practitioner or applicant found to have  
5 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the  
6 investigation and prosecution of the case."

7 13. Section 3753.7 of the Code states:

8 "For purposes of the Respiratory Care Practice Act, costs of prosecution shall  
9 include attorney general or other prosecuting attorney fees, expert witness fees, and other  
10 administrative, filing, and service fees."

11 14. Section 3753.1 of the Code states:

12 "(a) An administrative disciplinary decision imposing terms of probation may  
13 include, among other things, a requirement that the licensee-probationer pay the monetary costs  
14 associated with monitoring the probation. "

15 FIRST CAUSE FOR DISCIPLINE

16 (Substantially Related Convictions)

17 15. Respondent is subject to disciplinary action under code sections 3750(d),  
18 3750(g), 3752 [substantially related conviction], 3752.5 [conviction of a crime involving bodily  
19 injury] and CCR 1399.370(a) in that she has two substantially-related convictions. The  
20 circumstances are as follows:

21 January 2008 Conviction

22 16. On or about December 23, 2007, Martinez Police Officers Adam Winslett  
23 and Officer David Mathers responded to a telephone call regarding a domestic violence incident.  
24 J.R. was standing outside the residence, and the officers observed that he had three large  
25 scratches that were bleeding on the left side of his face. J.R. stated that he had telephoned the  
26 police department. He stated that he and Respondent had been married 15 years, and that he,  
27 Respondent and R., their 14-year old daughter, live in the residence. He stated that Respondent  
28 is currently enrolled in an alcohol recovery program and had been drinking alcohol earlier in the

1 evening. He confronted her about her alcohol use, and they argued. Respondent attacked him,  
2 using her fingernails to scratch his face. He stated that their daughter, R., had to pull Respondent  
3 away from him. Respondent then passed out, and he called the police.

4           17. The two officers went into the residence, and located Respondent, who  
5 was sleeping on a bed in the master bedroom. Officer Winslet woke Respondent, and asked her  
6 to stand up. He noticed a strong odor of alcohol on her person and breath, and her eyes were  
7 bloodshot and watery. He questioned her about J.R.'s scratch marks on his face, and she said  
8 that she knew nothing about it. She would not answer questions about the events that had  
9 occurred in the residence that night. Officer Winslett arrested Respondent for violating Penal  
10 Code section 273.5 [domestic battery], a felony.

11           18. The officers transported Respondent to the Martinez Detention Facility for  
12 booking. Sergeant Baily performed an in-custody search of Respondent. During this search,  
13 approximately 80 Vicodin<sup>1</sup> pills fell out of Respondent's clothing. The officers then added a  
14 charge of violating Penal Code section 4573 [bringing a controlled substance into jail], a felony.

15           19. On or about December 26, 2007, a criminal complaint titled *People of the*  
16 *State of California vs. Teresa Marie Ryncarz*, case no. 134866-3, was filed in Superior Court of  
17 California, Contra Costa County. Count 1 charged Respondent with a felony violation of Penal  
18 Code section 273.5 [domestic battery.] Count 2 charged Respondent with a felony violation of  
19 Penal Code section 4573 [bringing Vicodin, a controlled substance, into jail.] Count 3 charged  
20 respondent with a misdemeanor violation of Penal Code section 273.6(a) [violation of a court  
21 order.]

22           20. On or about January 24, 2008, the District Attorney amended the criminal  
23 complaint to add Count 4, a misdemeanor violation of Penal Code section 273.5 [domestic  
24 battery.] Respondent entered a plea of no contest, was found guilty and convicted of Counts 3  
25 and 4, and Counts 1 and 2 were dismissed. The Court placed her on three years formal  
26 probation, ordered her to be imprisoned for 180 days with credit for 32 days served, and  
27

---

28           1. Vicodin is a Schedule III controlled substance.

1 suspended 148 days. She was ordered to pay fines, perform 20 hours community service, ordered  
2 to stay away from the victim J.R., attend a 52 week domestic violence program, abstain from  
3 alcohol, submit to drug/alcohol testing, participate in counseling as directed by the Probation  
4 Department, complete a Kaiser intensive outpatient program and comply with Kaiser instructions  
5 if any for a residential program with proof to the Court. She was ordered to execute a HIPAA  
6 waiver with proof to the Probation Department and Court, and to provide proof of a prescription  
7 for Vicodin to be shown to the Court on February 8, 2008.

8 December 2007 Conviction

9 21. On or about March 3, 2007, at approximately 7:47 p.m., California  
10 Highway Patrol (CHP) Officer J. Pruitt was on daily patrol in a marked CHP vehicle when he  
11 was advised of a female walking on the right shoulder of the highway (later identified as  
12 respondent.) Officer Pruitt responded to the scene, and interviewed respondent. She stated that  
13 earlier in the evening, her husband, J.R., had been driving his vehicle, and she was seated in the  
14 front right passenger seat. They were planning on going out to dinner, but during the drive, they  
15 began arguing. Both she and her husband were yelling profanities at each other, and mutually  
16 shoving each other. During the argument, respondent bit her husband on the forearm, and broke  
17 the skin, causing bleeding and swelling to his arm. J.R. exited the freeway and told respondent  
18 that he would drive to the Walnut Creek police station to have the police settle their dispute.  
19 While driving the surface streets, respondent continued fighting with him, and scratched the left  
20 side of her husband's face, and the back of his neck. J.R. then drove back to the freeway, and  
21 decided to stop at a CHP truck weigh scales area, looking for an on-duty officer. Both J.R. and  
22 respondent got out of the vehicle. When Respondent walked away, J.R. got back in the vehicle  
23 and drove home.

24 22. While Officer Pruitt spoke to respondent, he smelled a strong odor of  
25 alcohol on her breath and person. He observed that she was unsteady and had a difficult time  
26 explaining the events of the evening, and had difficulty answering simple questions that he  
27 asked. She admitted that she had drunk two shots of vodka earlier in the evening but insisted that  
28 she was not drunk. She denied any injuries and refused medical treatment. Respondent began

1 roaming the parking lot, and refused to stay in one location while Officer Pruitt conducted an  
2 investigation.

3           23.     At Officer Pruitt's request, respondent telephoned J.R. and asked him to  
4 drive to the location and provide a statement as to the events that had occurred. When J.R.  
5 arrived on the scene, Officer Pruitt observed and photographed his injuries.

6           24.     At approximately 8:00 p.m., CHP Officer Brome arrived on the scene and  
7 talked to respondent. She became uncooperative and argumentative, and accused Officer Brome  
8 of being physically abusive. She began walking around the parking lot, and walked away from  
9 the location. When Officer Brome tried to direct her back, she began yelling, "you can't touch  
10 me." Officer Brome then placed her in custody for violating Penal Code section 647(f)  
11 [disorderly conduct] and 148(a) [resisting arrest.] After taking J.R.'s statement and observing his  
12 injuries, a felony charge of Penal Code 273.5 [wilful infliction of bodily injury] was added.  
13 Respondent was transported to the Contra Costa CHP office. Upon arrival, she refused to exit  
14 the police vehicle. She claimed that she was never read her rights, and that there was no reason  
15 to arrest her. She eventually exited the vehicle, and threatened to sue the officers involved.

16           25.     Respondent was transported to the Martinez Detention Facility, where she  
17 continued being argumentative and verbally abusive to staff. She yelled at the intake nurse to  
18 "shut up" and refused to answer medical questions. She refused to open her eyes for the booking  
19 photograph and when she was led to a holding room, she became physically combative with the  
20 officer. She was then physically restrained and placed in a safety cell.

21           26.     On or about May 21, 2007, a criminal complaint titled *People of the State*  
22 *of California vs. Teresa Marie Ryncarz*, case no. 131374-1, was filed in Superior Court of  
23 California, Contra Costa County. Count 1 charged Respondent with a felony violation of Penal  
24 Code section 273.5(a) [domestic battery.] Count 2 charged Respondent with a felony violation  
25 of Penal Code section 148(a)(1) [resist, obstruct, or delay a peace officer.] Count 3 charged  
26 respondent with a misdemeanor violation of Penal Code section 647(f) [public intoxication.]

27           27.     On or about December 7, 2007, the District Attorney amended the  
28 criminal complaint to dismiss Count 1, a felony violation of Penal Code section 273.5 [domestic

1 battery] and Count 3, a misdemeanor violation of Penal Code section 647(f) [public  
2 intoxication.] Respondent entered a plea of no contest to Count 2, Penal Code section 148(a)(1)  
3 [resist, obstruct, or delay a peace officer], was found guilty and convicted. The Court placed her  
4 on three years probation, ordered her to be imprisoned for 4 days with credit for 4 days served.  
5 She was ordered to pay fines, attend a four month Kaiser Outpatient Program, and attend AA  
6 twice a week for six months after completion of the Kaiser program.

7 28. Therefore, Respondent's 2008 misdemeanor conviction for violating Penal  
8 Code sections 273.6(a) [violation of a court order] and Penal Code section 273.5 [domestic  
9 battery], and 2007 misdemeanor conviction for violating Penal Code section 148(a)(1) [resist,  
10 obstruct, or delay a peace officer] are cause to discipline her license pursuant to code sections  
11 3750(d), 3750(g) and 3752 [substantially related conviction], and 3752.5 [conviction of a crime  
12 involving bodily injury].

#### 13 SECOND CAUSE FOR DISCIPLINE

14 (Possession of a controlled substance)

15 29. Paragraphs 16 through 27 are incorporated herein.

16 30. Respondent is subject to disciplinary action under section 3750.5(a)  
17 [possession of a controlled substance] in that on December 23, 2007, she was in possession of  
18 Vicodin, a controlled substance, without a valid prescription.

#### 19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
21 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

22 1. Revoking or suspending respiratory care practitioner license number  
23 14552 issued to Teresa Marie Ryncarz;

24 2. Ordering Teresa Marie Ryncarz to pay the Respiratory Care Board the  
25 costs of the investigation and enforcement of this case, and if placed on probation, the costs of  
26 probation monitoring;

27 ///

28 ///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Taking such other and further action as deemed necessary and proper.

DATED: November 25, 2008

Original signed by Liane Zimmerman for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
Department of Consumer Affairs  
State of California  
Complainant

SF2008200535

ryncarz\_t\_acc.wpd